



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

129

RSA-1743-2025 (O&M)  
Date of Decision: 01.10.2025

M/s Tractor Trolley Association

...Appellant

V/s

M/s Chandan Agro Products Pvt. Ltd. and another

...Respondents

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Shehbaz Thind, Advocate, for the appellant.

Mr. Jasdeep Singh Gill, Advocate, for the respondents.

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**VIKRAM AGGARWAL, J**

The instant appeal lays challenge to the judgment and decree dated 07.04.2025 passed by the Court of Addl. District Judge, Ludhiana dismissing the appeal filed against the judgment and decree dated 08.07.2016 passed by the Court of Civil Judge (Jr. Divn.), Ludhiana vide which the counter claim filed by respondent No.1/counter claimant for mandatory injunction was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. Initially, one Sarabjit Singh had instituted a suit for permanent injunction against one Surinder Singh restraining him from interfering into his peaceful possession and from dispossessing him illegally from plot bearing No.802, Industrial Area-B, Gill Road, Ludhiana (hereinafter referred to as the "suit property"). The said Sarabjit Singh claimed himself to be the President of Bharat Tractor Trolley Union.



3.1 The case set up was that the suit property had been taken on rent from Surinder Singh at a monthly rent of Rs.2000/-. The tenancy was oral. In the said suit, a statement was given by learned counsel for Surinder Singh that Sarabjit Singh etc. would not be disposed illegally and forcibly. In view of the said statement, the suit was withdrawn.

3.2 A counter claim had also been preferred by M/s Chandan Agro Products Pvt Ltd. for mandatory injunction directing the respondents (Sarabjit Singh and M/s Bharat Tractor Trolley Union) to hand over the vacant and physical possession of the suit property of which they were in forcible possession. *Mesne* profits @ Rs.1 lakh per month were also claimed.

3.3 It was claimed that the counter claimant was the owner of the suit property and the respondents had taken forcible possession of the same on 15.04.2011. Accordingly, mandatory injunction was prayed for along with payment of *mesne* profits.

4. The stand taken by the respondents was that they were not trespassers and in fact were tenants and had been paying rent regularly since 1998. An objection as regards Court fee was raised. The trial Court directed the counter claimant to pay the same. The same was paid, whereafter, the suit for mandatory injunction was converted into a suit for possession.

5. From the pleadings of the parties, following issues were framed.

***“1. Whether the counter claimant is entitled to relief of mandatory injunction as prayed for?OPCC***

***2. Whether the counter claim is entitled to relief of possession as described?OPCC***

***3. Whether counter claim is entitled to relief of mesne profits @ Rs.1,00,000/- per month w.e.f. 15.04.2011 ?OPCC***

***4. Whether the counter claim of counter claimant is not maintainable?OPR***

***5. Whether respondent is tenant under the counter claimant?OPR***

***6. Relief.”***



6. Parties led their respective evidence.

6.1 The trial Court decreed the counter claim vide judgment and decree dated 08.07.2016. The respondents were also directed to pay mesne profits @ Rs.30,000/- per month from the date of filing of the counter claim till the delivery of possession of the suit property.

6.2 Both sides preferred appeals. The counter claimant sought payment of *mesne* profits @ Rs.1,00,000/- whereas, the respondents assailed the judgment and decree passed by the trial Court, vide which the counter claim had been decreed. Both appeals were dismissed by the Court of Addl. District Judge, Ludhiana vide judgment and decree dated 07.04.2025, leading to filing of the present appeal.

7. It would be essential to notice here that the first appeal against the judgment passed in the counter claim was not filed by the original plaintiff/respondent i.e. Sarabjit Singh or Bharat Tractor Trolley Union but was filed by M/s Tractor Trolley Association, whose stand was that the suit for injunction had been filed in collusion with the counter-claimant and Sarabjit Singh.

8. I have heard learned counsel for the parties.

9. Learned counsel for the appellant has strenuously urged that both Courts have gravely erred in decreeing the counter claim. It has been submitted that no counter claim could have been filed by the company once it was not a party in the original suit. Learned counsel has further submitted that the counter claimant was not able to prove that it was the owner of the suit property. Learned counsel has also contended that appellants had duly proved that they were tenants over the suit property and, therefore, a decree for possession could not have been passed as they were not in unauthorized or illegal possession of the suit property. Learned counsel has also contended



that the first appellate Court did not discuss the evidence led on the record of the case, which has caused grave prejudice to the appellant.

10. *Per contra*, learned counsel representing the respondents-caveators has supported the judgments and decrees under challenge. It has been submitted that the appellants are in illegal possession of the suit property and have, therefore, rightly been directed to hand over the possession of the same to the counter claimant. Learned counsel has referred to the judgments and decrees under challenge and has submitted that no interference is called for.

11. I have considered the submission made by learned counsel for the parties.

12. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

13. As regards the suit property, both Courts rightly found that the counter claimant had been able to prove that it was the owner of the same. The conveyance deed dated 09.01.1969 (Ex.P5) was produced on record, vide which an industrial plot/factory site in Industrial Area-B, measuring 1.5 acres was allotted to one M/s Techno Cast India. The partners of M/s Techno Cast India entered into an agreement on 27.03.1987 (Ex.P6) with regard to the



dissolution of the partnership and distribution of assets. On the basis of the said agreement, Award dated 27.03.1987 (Ex.P7) was passed by the Arbitrator. As per the Award, the said industrial plot was divided into four small plots. Out of which, plot No.1 (suit property) was allotted to the counter claimant. The Award was made rule of the Court on 21.05.1987 (Ex.P8). Subsequently, a relinquish deed (Ex.P9) was executed by M/s Techno Cast India in favour of the counter claimant with regard to land measuring 1451.4 sq. ft. The boundaries of the property mentioned in the said relinquish deed (Ex.P9) are the same as that of the suit property as depicted in the site plan (Ex.P4). Both Courts, therefore, rightly found that the counter claimant was the owner of the suit property.

13.1 Not only this, the appellants did not lead any evidence worth its name to even prima facie prove that they were tenants over the suit property and that they had been paying the rent thereon. No document was produced to show their possession over the suit property. If the appellants were in possession of the suit property and had an office there, there would definitely have been some proof to show the possession of the appellants over the suit property. RW-1 (Sarabjit Singh) stated in his cross-examination that he did not remember as to when the suit property had been taken on rent from Surinder Singh. He could not give any details about any rent having been paid. Some weighment slips (Exs.R1 to R7) were produced wherein, the description of the property was mentioned in hand. It was rightly found that the said handwriting could have been made at any point of time and the originals had not been brought on record. The electricity bills (Exs.P21 to P26) in fact depicted that Surinder Singh, who was the managing director of the counter claimant, was in possession of the suit property. Being the owner, the counter claimant could definitely have filed the counter claim.



13.2 Despite valiant efforts, learned counsel for the appellant has not been able to cause any dent in the findings recorded by the Courts warranting interference in second appeal. In fact, both Courts have recorded concurrent findings of facts. The said findings are found to be reasonable and have been recorded as per the record.

14. That being so, the instant appeal is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**October 01, 2025**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No